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NAIROBI PROTOCOL ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS

MAY 21 (legislative day, MAY 11), 1982.—Ordered to be printed

Mr. PERCY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Treaty Doc. No. 97-2]

The Committee on Foreign Relations, to which was referred the Protocol to the Agreement on the Importation of Education, Scientific, and Cultural Materials, adopted at Nairobi on November 26, 1976, and opened for signature at the United Nations on March 1, 1977, having considered the same, reports favorably thereon without reservation and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

This Protocol amends and expands the coverage of the Agreement on the Importation of Educational, Scientific and Cultural Materials, which was adopted in Florence in July 1950, and entered into force for the United States on November 2, 1966. The purpose of the original Florence Agreement was to facilitate the international flow of certain materials through the extension of duty-free treatment. These materials include books, publications and documents, works of art and collectors' pieces, visual and auditory materials, scientific instruments and apparatus, and articles for the blind. The present Protocol, negotiated in the mid-1970's in Nairobi, Kenya, substantially broadens the list of eligible products under the Agreement, including those for the use by blind and other handicapped persons. It is expected to have important economic benefits for the United States, both in lower cost imports for U.S. consumers and in increased markets for U.S. exporters who are highly competitive in the products covered by the Protocol.

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COMMITTEE ACTION

The Committee received the Protocol on January 19, 1981. On October 20, 1981, Senator Mathias chaired a hearing to receive the testimony of Ernest B. Johnston, Jr., Deputy Assistant Secretary for Economic and Business Affairs in the Department of State on behalf of the Reagan Administration. The record of that hearing has been published and is available to Members and the public. The Committee also received numerous written endorsements from private industries and associations.

The Committee elected to withhold action on the Protocol until implementing legislation was proposed by the Reagan Administration. Consultations were held during that time with the staffs of the two committees responsible for the consideration of that legislation: the Finance Committee of the Senate and the Ways and Means Committee of the House of Representatives. Implementing legislation has now been proposed by the Administration and introduced in the House as H.R. 6093 by Congressman Gibbons. On April 27, 1982, the Committee voted to report the Protocol favorably to the Senate by a voice vote.

COMMITTEE COMMENTS

The Committee is not aware of any opposition to the ratification of this Protocol by the United States. Strong support has been expressed by the following organizations: American Foundation for the Blind, Association of University Presses, American Library Association, Association of American Publishers, Recording Industry Association of America, and the Canadian Film Development Corporation.

The Protocol includes nine separate annexes covering different types of materials, of which the United States—in accordance with the elective terms of the Protocol itself—would adhere to five:

Annex A: Books, Publications and Documents.

Annex B: Works of Art and Collectors' Pieces of an Educational, Scientific and Cultural Character.

Annex C: Visual and Auditory Materials.

Annex D: Scientific Instruments or Apparatus.

Annex E: Articles for the Blind and other Handicapped.

The remaining annexes, dealing with sports equipment, musical instruments and equipment, and material and equipment used for the production of books, publications and documents, would not be adhered to because of the anticipated adverse economic consequences of doing so.

In a letter from Assistant Secretary of State Powell Moore on March 10, 1982, listing the legislative priorities of the Department of State, this Protocol was one of the few agreements for which the Department expressed an "urgent need." The Committee recommends that the Senate give its advice and consent to this agreement at an early opportunity.

ENTRY INTO FORCE

The Protocol would enter into force for the United States when its instrument of ratification has been deposited by the President. The Reagan Administration has expressed its intention not to take such a step until the implementing legislation referred to above is enacted.

Furthermore, in order to ensure that our exporters receive generally equivalent benefits from other trading nations, the Administration in testimony before the Committee has expressed its intent not to deposit the U.S. instrument of ratification until the President is satisfied that, as of the date the Protocol would enter into force for the United States, adequate reciprocity would be accorded by other countries. However, in view of the very strong support for, and interest in, the early implementation of the Protocol by the organizations and industries referred to above, the proposed implementing legislation would require the granting of temporary duty-free treatment for articles for the use of the blind or other handicapped persons even before the U.S. instrument of ratification has been deposited, and would authorize the President to grant temporary duty-free treatment for other articles covered by the Protocol. This temporary duty-free treatment would be made permanent only if it is determined that our exporters receive benefits generally equivalent to those granted by the United States under the Protocol.

RESOLUTION OF RATIFICATION

Resolved, (*two-thirds of the Senators present concurring therein*), that the Senate advise and consent to the ratification of the Protocol to the Agreement on the Importation of Educational, Scientific, and Cultural Materials, adopted at Nairobi on November 26, 1976, and signed by the United States on September 1, 1981.

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